

SENATE AMENDMENTS

2nd Printing

By: Kolkhorst

H.B. No. 3201

A BILL TO BE ENTITLED

AN ACT

relating to the practice of dentistry; imposing surcharges and fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 254.004, Occupations Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board shall collect an additional \$55 surcharge for each of the following fees:

(1) the fee for the issuance of a dental license; and

(2) the fee for the renewal of a dental license.

(d) The board shall deposit each surcharge collected to the credit of the dental public assurance account. The dental public assurance account is an account in the general revenue fund that shall be appropriated only to the board to pay for the board's enforcement program, including an expert panel.

SECTION 2. Section 254.006(b), Occupations Code, is amended to read as follows:

(b) Investigation files and other records are confidential, except the board shall inform the license holder of the specific allegations against the license holder ~~[and shall be divulged only to the persons investigated at the completion of the investigation]~~. The board may share investigation files and other records with another state regulatory agency or a local, state, or federal law enforcement agency.

1 SECTION 3. Section 254.018, Occupations Code, is amended to
2 read as follows:

3 Sec. 254.018. [~~EXPERT~~] TESTIMONY. A member of the board may
4 not express an oral or written opinion or serve as an expert witness
5 in a suit or administrative claim pending before the same board
6 ~~[involving a health care liability claim]~~ against or for a person
7 licensed or registered under this subtitle ~~[dentist]~~ for injury to
8 or death of a patient or for a violation of the standard of care or
9 the commission of malpractice ~~[unless the member receives approval~~
10 ~~from the board or an executive committee of the board to serve as an~~
11 ~~expert witness]~~.

12 SECTION 4. Sections 255.006(a) and (d-1), Occupations Code,
13 are amended to read as follows:

14 (a) A complaint received under this chapter must be filed
15 with and reviewed by the board to determine jurisdiction. If the
16 board has jurisdiction, the board shall complete a preliminary
17 investigation of the complaint not later than the 60th day after the
18 date of receiving ~~[investigate the complaint to determine the facts~~
19 ~~concerning]~~ the complaint. The board shall first determine whether
20 the license holder constitutes a continuing threat to the public
21 welfare. On completion of the preliminary investigation, the board
22 shall determine whether to officially proceed on the complaint. If
23 the board fails to complete the preliminary investigation in the
24 time required by this subsection, the board's official
25 investigation of the complaint is considered to commence on that
26 date.

27 (d-1) Procedures established under Subsection (d)(6) must:

1 (1) [~~require a board employee to consult with a~~
2 ~~dentist member of the board before dismissing a complaint relating~~
3 ~~to patient morbidity, professional conduct, or quality of care,~~

4 [~~(2)~~] ensure that the decision to dismiss a complaint
5 is made with the appropriate level of review and necessary
6 expertise and experience; and

7 (2) [~~(3)~~] require the dismissal of a complaint to be
8 reported to the board at a public meeting of the board.

9 SECTION 5. Chapter 255, Occupations Code, is amended by
10 adding Sections 255.0065, 255.0066, and 255.0067 to read as
11 follows:

12 Sec. 255.0065. COMPOSITION OF EXPERT PANELS. (a) The board
13 by rule shall provide for expert panels appointed by the board to
14 assist with complaints and investigations relating to professional
15 competency by acting as expert dentist and dental hygienist
16 reviewers.

17 (b) Each member of the expert dentist panel must be licensed
18 to practice dentistry in this state. Each member of the expert
19 dentist hygienist panel must be licensed to practice dental hygiene
20 in this state.

21 (c) The rules adopted under this section must include
22 provisions governing the composition of the panel, qualifications
23 for membership on the panel, length of time a member may serve on
24 the panel, grounds for removal from the panel, the avoidance of
25 conflicts of interest, including situations in which the affected
26 license holder and the panel member live or work in the same
27 geographical area or are competitors, and the duties to be

1 performed by the panel.

2 (d) The board's rules governing grounds for removal from the
3 panel must include providing for the removal of a panel member who
4 is repeatedly delinquent in reviewing complaints and in submitting
5 reports to the board.

6 Sec. 255.0066. DETERMINATION OF COMPETENCY. (a) If the
7 preliminary investigation under Section 255.006(a) indicates that
8 an act by a license holder falls below an acceptable standard of
9 care, the complaint shall be reviewed by an expert panel authorized
10 under Section 255.0065 consisting of license holders who practice
11 in the same specialty as the license holder who is the subject of
12 the complaint or in another specialty that is similar to the license
13 holder's specialty.

14 (b) The expert panel shall report in writing the panel's
15 determinations based on the review of the complaint under
16 Subsection (a). The report must specify the standard of care that
17 applies to the facts that are the basis of the complaint and the
18 clinical basis for the panel's determinations, including any
19 reliance on peer-reviewed journals, studies, or reports.

20 Sec. 255.0067. REPORTS; PROCEDURES FOR EXPERT REVIEW.

21 (a) A license holder on an expert panel authorized by Section
22 255.0065 who is initially selected to review a complaint shall:

23 (1) determine whether the license holder who is the
24 subject of the complaint has violated the standard of care
25 applicable to the circumstances; and

26 (2) issue a preliminary written report of that
27 determination.

1 (b) A second expert reviewer shall review the first expert
2 reviewer's preliminary report and other information associated
3 with the complaint. If the second reviewer agrees with the first
4 reviewer, the first reviewer shall issue a final written report on
5 the matter.

6 (c) If the second expert reviewer does not agree with the
7 conclusions of the first expert reviewer, a third expert reviewer
8 shall review the preliminary report and information and decide
9 between the conclusions reached by the first two reviewers. The
10 final written report shall be issued by the third reviewer or the
11 reviewer with whom the third reviewer concurs.

12 (d) In reviewing a complaint, the expert reviewers assigned
13 to examine the complaint may consult and communicate with each
14 other about the complaint in formulating their opinions and
15 reports.

16 SECTION 6. Subchapter C, Chapter 256, Occupations Code, is
17 amended by adding Section 256.106 to read as follows:

18 Sec. 256.106. DELEGATED AUTHORITY TO ISSUE LICENSES. The
19 board may delegate authority to board employees to issue licenses
20 under this subtitle to applicants who clearly meet all licensing
21 requirements. If the board employees determine that the applicant
22 does not clearly meet all licensing requirements, the application
23 shall be returned to the board. A license issued under this section
24 does not require formal board approval.

25 SECTION 7. Subchapter B, Chapter 258, Occupations Code, is
26 amended by adding Section 258.055 to read as follows:

27 Sec. 258.055. PRACTICE OF DENTISTRY ON CERTAIN CHILDREN.

1 (a) The parent or guardian of a child younger than 18 years of age
2 may be present in the treatment room during the child's dental
3 treatment or procedure, unless the dentist determines in the
4 dentist's professional judgment that the presence of the parent or
5 guardian in the treatment room is likely to have an adverse effect
6 on the treatment or the child.

7 (b) In this section, "parent or guardian" includes a person
8 authorized by law to consent for the medical or dental treatment of
9 a child younger than 18 years of age.

10 SECTION 8. Chapter 263, Occupations Code, is amended by
11 adding Sections 263.0065, 263.0076, and 263.0077 to read as
12 follows:

13 Sec. 263.0065. DELEGATION OF CERTAIN COMPLAINT
14 DISPOSITIONS. (a) The board may delegate to a committee of board
15 employees the authority to dismiss or enter into an agreed
16 settlement of a complaint that does not relate directly to patient
17 care or that involves only administrative violations.

18 (b) The disposition determined by the committee must be
19 approved by the board at a public meeting.

20 (c) A complaint delegated under this section shall be
21 referred for informal proceedings under Section 263.0075 if:

22 (1) the committee of employees determines that the
23 complaint should not be dismissed or settled;

24 (2) the committee is unable to reach an agreed
25 settlement; or

26 (3) the affected license holder requests that the
27 complaint be referred for informal proceedings.

1 Sec. 263.0076. INFORMAL SETTLEMENT CONFERENCE NOTICE. (a)

2 If an informal settlement conference will be held under Section
3 263.0075, notice of the time and place of the conference must be
4 given to the license holder not later than the 45th day before the
5 date the conference is held.

6 (b) The notice required by Subsection (a) must be
7 accompanied by a written statement of the specific allegations
8 against the license holder and the information the board intends to
9 use at the informal settlement conference. If the board does not
10 provide the statement or information when the notice is provided,
11 the license holder may use that failure as grounds for rescheduling
12 the conference.

13 (c) The license holder must provide to the board the license
14 holder's rebuttal not later than the 15th day before the date of the
15 conference in order for that information to be considered at the
16 conference.

17 (d) On request by a license holder under review, the board
18 shall make a recording of the informal settlement conference. The
19 recording is a part of the investigative file and may not be
20 released to a third party unless authorized under this subtitle.
21 The board may charge the license holder a fee to cover the cost of
22 recording the conference. The board shall provide a copy of the
23 recording to the license holder on the license holder's request.

24 Sec. 263.0077. REMEDIAL PLAN. (a) The board may issue and
25 establish the terms of a remedial plan to resolve the investigation
26 of a complaint filed under this subtitle.

27 (b) A remedial plan may not contain a provision that:

1 (1) revokes, suspends, limits, or restricts a person's
2 license or other authorization to practice dentistry or dental
3 hygiene; or

4 (2) assesses an administrative penalty against a
5 person.

6 (c) A remedial plan may not be imposed to resolve a
7 complaint:

8 (1) concerning:

9 (A) a patient death;

10 (B) the commission of a felony; or

11 (C) a matter in which the license holder engaged
12 in inappropriate sexual behavior or contact with a patient or
13 became financially or personally involved with a patient in an
14 inappropriate manner; or

15 (2) in which the appropriate resolution may involve a
16 restriction on the manner in which a license holder practices
17 dentistry or dental hygiene.

18 (d) The board may not issue a remedial plan to resolve a
19 complaint against a license holder if the license holder has
20 previously entered into a remedial plan with the board for the
21 resolution of a different complaint filed under this subtitle.

22 (e) The board may assess a fee against a license holder
23 participating in a remedial plan in an amount necessary to recover
24 the costs of administering the plan.

25 (f) A remedial plan is public information.

26 (g) In civil litigation, a remedial plan is a settlement
27 agreement under Rule 408, Texas Rules of Evidence.

1 (h) The board shall adopt rules necessary to implement this
2 section.

3 SECTION 9. Not later than December 1, 2013, the State Board
4 of Dental Examiners shall adopt rules necessary to implement the
5 changes in law made by this Act.

6 SECTION 10. Section 254.004(c), Occupations Code, as added
7 by this Act, applies only to an application for an original dental
8 license or for renewal of a dental license filed on or after
9 September 1, 2013. An application filed before September 1, 2013,
10 is governed by the law in effect immediately before that date, and
11 that law is continued in effect for that purpose.

12 SECTION 11. Sections 254.006(b) and 255.006, Occupations
13 Code, as amended by this Act, and Sections 255.0065, 255.0066,
14 255.0067, 263.0076, and 263.0077, Occupations Code, as added by
15 this Act, apply only to the investigation and resolution of a
16 complaint filed with the State Board of Dental Examiners on or after
17 January 1, 2014. A complaint filed before that date is governed by
18 the law in effect on the date the complaint was filed, and the
19 former law is continued in effect for that purpose.

20 SECTION 12. (a) The Texas State Board of Dental Examiners
21 shall collect the following information from dentists licensed by
22 the board in conjunction with the first annual license renewal of
23 each dental license that occurs after September 1, 2013:

24 (1) the number and type of dentists employed by the
25 license holder, if any;

26 (2) the name under which the license holder provides
27 dental services and each location at which those services are

1 provided by that license holder;

2 (3) whether the license holder is a participating
3 provider under the Medicaid program operated under Chapter 32,
4 Human Resources Code, or the child health plan program operated
5 under Chapter 62, Health and Safety Code;

6 (4) whether the license holder is employed by or
7 contracts with a dental group practice and, if so, the name and
8 address of the dental group practice;

9 (5) whether the license holder owns a dental group
10 practice and, if so, the name and address of the dental group
11 practice and of each dental office at which the dental group
12 practice provides services to patients;

13 (6) whether the license holder is a party to a business
14 support services agreement and, if so, the name and address of the
15 management service organization that provides services under the
16 agreement; and

17 (7) if the license holder owns a dental group
18 practice, whether that practice is a party to a business support
19 services agreement and, if so, the name and address of the
20 management service organization that provides services under the
21 agreement.

22 (b) Not later than November 1, 2014, the board shall provide
23 a report to the legislature on the information collected under this
24 section and on the board's use of the information in the exercise of
25 the board's statutory authority to regulate the practice of
26 dentistry.

27 (c) This section expires December 1, 2014.

1 SECTION 13. (a) Except as provided by Subsection (b) of
2 this section, this Act takes effect January 1, 2014.

3 (b) Section 9 of this Act and Sections 254.004(c) and (d),
4 Occupations Code, as added by this Act, take effect September 1,
5 2013.

ADOPTED

MAY 20 2013


Secretary of the Senate

By: NELSON

H.B. No. 3201

Substitute the following for H.B. No. 3201:

By: 

C.S. H.B. No. 3201

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the practice of dentistry; imposing surcharges and
3 fees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 254.004, Occupations Code, is amended by
6 adding Subsections (c) and (d) to read as follows:

7 (c) The board shall collect an additional \$55 surcharge for
8 each of the following fees:

9 (1) the fee for the issuance of a dental license; and

10 (2) the fee for the renewal of a dental license.

11 (d) The board shall deposit each surcharge collected to the
12 credit of the dental public assurance account. The dental public
13 assurance account is an account in the general revenue fund that
14 shall be appropriated only to the board to pay for the board's
15 enforcement program, including an expert panel.

16 SECTION 2. Section 254.006(b), Occupations Code, is amended
17 to read as follows:

18 (b) Investigation files and other records are confidential,
19 except the board shall inform the license holder of the specific
20 allegations against the license holder [~~and shall be divulged only~~
21 ~~to the persons investigated at the completion of the~~
22 ~~investigation~~]. The board may share investigation files and other
23 records with another state regulatory agency or a local, state, or
24 federal law enforcement agency.

1 SECTION 3. Section 254.018, Occupations Code, is amended to
2 read as follows:

3 Sec. 254.018. [~~EXPERT~~] TESTIMONY. A member of the board may
4 not express an oral or written opinion or serve as an expert witness
5 in a civil action that is:

6 (1) related to an administrative matter within the
7 board's jurisdiction;

8 (2) brought [~~suit involving a health care liability~~
9 ~~claim]~~ against or for a person licensed or registered under this
10 subtitle; and

11 (3) [~~dentist~~] for the injury to or death of a patient
12 or for a violation of the standard of care or the commission of
13 malpractice [~~unless the member receives approval from the board or~~
14 ~~an executive committee of the board to serve as an expert witness].~~

15 SECTION 4. Chapter 254, Occupations Code, is amended by
16 adding Section 254.019 to read as follows:

17 Sec. 254.019. DEFINITIONS. (a) In this section:

18 (1) "Dental service agreement" means an agreement
19 between a dental service organization and a dentist under which the
20 dental service organization will:

21 (A) provide services related to the nonclinical
22 business aspects of a dental practice, including arranging or
23 providing financing, performing billing or payroll tasks,
24 processing patient insurance claims, scheduling or otherwise
25 interacting with patients, and performing other administrative
26 tasks;

27 (B) supervise or manage the employees or

1 contractors of the dentist; or

2 (C) employ or otherwise contract with a dentist
3 in the dentist's capacity as a dentist.

4 (2) "Dental service organization" means an entity
5 that:

6 (A) is owned wholly or partly by a person who is
7 or is not a dentist; and

8 (B) under a dental service agreement, provides or
9 offers to provide services to a dentist or employs or otherwise
10 contracts with a dentist in the dentist's capacity as a dentist.

11 (b) The board shall collect the following information from
12 dentists licensed by the board in conjunction with the issuance and
13 renewal of each dental license:

14 (1) the number and type of dentists employed by the
15 license holder, if any;

16 (2) the name under which the license holder provides
17 dental services and each location at which those services are
18 provided by that license holder;

19 (3) whether the license holder is a participating
20 provider under the Medicaid program operated under Chapter 32,
21 Human Resources Code, or the child health plan program operated
22 under Chapter 62, Health and Safety Code;

23 (4) whether the license holder is employed by or
24 contracts with a dental service organization and, if so, the name
25 and address of the dental service organization;

26 (5) whether the license holder owns all or part of a
27 dental service organization and, if so, the name and address of the

1 dental service organization and of each dental office at which the
2 dental service organization provides services to patients;

3 (6) whether the license holder is a party to a dental
4 service agreement and, if so, the name and address of the dental
5 service organization that provides services under the agreement;
6 and

7 (7) if the license holder owns all or part of a dental
8 service organization, whether that practice is a party to a dental
9 service agreement and, if so, the name and address of the dental
10 service organization that provides services under the agreement.

11 (c) If requested by the board, a dental service organization
12 shall provide to the board the address of the locations where the
13 organization provides dental services in this state and the name of
14 each dentist providing dental services at each location.

15 (d) The board shall provide an option for the electronic
16 submission of the information required under this section.

17 (e) Not later than November 1 of each even-numbered year,
18 the board shall provide a report to the legislature on the
19 information collected under this section and on the board's use of
20 the information in the exercise of the board's statutory authority
21 to regulate the practice of dentistry.

22 SECTION 5. Sections 255.006(a) and (d-1), Occupations Code,
23 are amended to read as follows:

24 (a) A complaint received under this chapter must be filed
25 with and reviewed by the board to determine jurisdiction. If the
26 board has jurisdiction, the board shall complete a preliminary
27 investigation of the complaint not later than the 60th day after the

1 date of receiving [~~investigate the complaint to determine the facts~~
2 ~~concerning~~] the complaint. The board shall first determine whether
3 the license holder constitutes a continuing threat to the public
4 welfare. On completion of the preliminary investigation, the board
5 shall determine whether to officially proceed on the complaint. If
6 the board fails to complete the preliminary investigation in the
7 time required by this subsection, the board's official
8 investigation of the complaint is considered to commence on that
9 date.

10 (d-1) Procedures established under Subsection (d)(6) must:

11 (1) [~~require a board employee to consult with a~~
12 ~~dentist member of the board before dismissing a complaint relating~~
13 ~~to patient morbidity, professional conduct, or quality of care,~~

14 [~~2~~] ensure that the decision to dismiss a complaint
15 is made with the appropriate level of review and necessary
16 expertise and experience; and

17 (2) [~~3~~] require the dismissal of a complaint to be
18 reported to the board at a public meeting of the board.

19 SECTION 6. Chapter 255, Occupations Code, is amended by
20 adding Sections 255.0065, 255.0066, and 255.0067 to read as
21 follows:

22 Sec. 255.0065. COMPOSITION OF EXPERT PANELS. (a) The board
23 by rule shall provide for expert panels appointed by the board to
24 assist with complaints and investigations relating to professional
25 competency by acting as expert dentist and dental hygienist
26 reviewers.

27 (b) Each member of the expert dentist panel must be licensed

1 to practice dentistry in this state. Each member of the expert
2 dental hygienist panel must be licensed to practice dental hygiene
3 in this state.

4 (c) The rules adopted under this section must include
5 provisions governing the composition of the panel, qualifications
6 for membership on the panel, length of time a member may serve on
7 the panel, grounds for removal from the panel, the avoidance of
8 conflicts of interest, including situations in which the affected
9 license holder and the panel member live or work in the same
10 geographical area or are competitors, and the duties to be
11 performed by the panel.

12 (d) The board's rules governing grounds for removal from the
13 panel must include providing for the removal of a panel member who
14 is repeatedly delinquent in reviewing complaints and in submitting
15 reports to the board.

16 Sec. 255.0066. DETERMINATION OF COMPETENCY. (a) If the
17 preliminary investigation under Section 255.006(a) indicates that
18 an act by a license holder falls below an acceptable standard of
19 care, the complaint shall be reviewed by an expert panel authorized
20 under Section 255.0065 consisting of license holders who practice
21 in the same specialty as the license holder who is the subject of
22 the complaint or in another specialty that is similar to the license
23 holder's specialty.

24 (b) The expert panel shall report in writing the panel's
25 determinations based on the review of the complaint under
26 Subsection (a). The report must specify the standard of care that
27 applies to the facts that are the basis of the complaint and the

1 clinical basis for the panel's determinations, including any
2 reliance on peer-reviewed journals, studies, or reports.

3 Sec. 255.0067. REPORTS; PROCEDURES FOR EXPERT REVIEW.

4 (a) A license holder on an expert panel authorized by Section
5 255.0065 who is initially selected to review a complaint shall:

6 (1) determine whether the license holder who is the
7 subject of the complaint has violated the standard of care
8 applicable to the circumstances; and

9 (2) issue a preliminary written report of that
10 determination.

11 (b) A second expert reviewer shall review the first expert
12 reviewer's preliminary report and other information associated
13 with the complaint. If the second reviewer agrees with the first
14 reviewer, the first reviewer shall issue a final written report on
15 the matter.

16 (c) If the second expert reviewer does not agree with the
17 conclusions of the first expert reviewer, a third expert reviewer
18 shall review the preliminary report and information and decide
19 between the conclusions reached by the first two reviewers. The
20 final written report shall be issued by the third reviewer or the
21 reviewer with whom the third reviewer concurs.

22 (d) In reviewing a complaint, the expert reviewers assigned
23 to examine the complaint may consult and communicate with each
24 other about the complaint in formulating their opinions and
25 reports.

26 SECTION 7. Subchapter C, Chapter 256, Occupations Code, is
27 amended by adding Section 256.106 to read as follows:

1 Sec. 256.106. DELEGATED AUTHORITY TO ISSUE LICENSES. The
2 board may delegate authority to board employees to issue licenses
3 under this subtitle to applicants who clearly meet all licensing
4 requirements. If the board employees determine that the applicant
5 does not clearly meet all licensing requirements, the application
6 shall be returned to the board. A license issued under this section
7 does not require formal board approval.

8 SECTION 8. Subchapter B, Chapter 258, Occupations Code, is
9 amended by adding Section 258.055 to read as follows:

10 Sec. 258.055. PRACTICE OF DENTISTRY ON CERTAIN CHILDREN.

11 (a) The parent or guardian of a child younger than 18 years of age
12 may be present in the treatment room during the child's dental
13 treatment or procedure, unless the dentist determines in the
14 dentist's professional judgment that the presence of the parent or
15 guardian in the treatment room is likely to have an adverse effect
16 on the treatment or the child.

17 (b) In this section, "parent or guardian" includes a person
18 authorized by law to consent for the medical or dental treatment of
19 a child younger than 18 years of age.

20 SECTION 9. Chapter 263, Occupations Code, is amended by
21 adding Sections 263.0065, 263.0076, and 263.0077 to read as
22 follows:

23 Sec. 263.0065. DELEGATION OF CERTAIN COMPLAINT
24 DISPOSITIONS. (a) The board may delegate to a committee of board
25 employees the authority to dismiss or enter into an agreed
26 settlement of a complaint that does not relate directly to patient
27 care or that involves only administrative violations.

1 (b) The disposition determined by the committee must be
2 approved by the board at a public meeting.

3 (c) A complaint delegated under this section shall be
4 referred for informal proceedings under Section 263.0075 if:

5 (1) the committee of employees determines that the
6 complaint should not be dismissed or settled;

7 (2) the committee is unable to reach an agreed
8 settlement; or

9 (3) the affected license holder requests that the
10 complaint be referred for informal proceedings.

11 Sec. 263.0076. INFORMAL SETTLEMENT CONFERENCE NOTICE. (a)
12 If an informal settlement conference will be held under Section
13 263.0075, notice of the time and place of the conference must be
14 given to the license holder not later than the 45th day before the
15 date the conference is held.

16 (b) The notice required by Subsection (a) must be
17 accompanied by a written statement of the specific allegations
18 against the license holder and the information the board intends to
19 use at the informal settlement conference. If the board does not
20 provide the statement or information when the notice is provided,
21 the license holder may use that failure as grounds for rescheduling
22 the conference.

23 (c) The license holder must provide to the board the license
24 holder's rebuttal not later than the 15th day before the date of the
25 conference in order for that information to be considered at the
26 conference.

27 (d) On request by a license holder under review, the board

1 shall make a recording of the informal settlement conference. The
2 recording is a part of the investigative file and may not be
3 released to a third party unless authorized under this subtitle.
4 The board may charge the license holder a fee to cover the cost of
5 recording the conference. The board shall provide a copy of the
6 recording to the license holder on the license holder's request.

7 Sec. 263.0077. REMEDIAL PLAN. (a) The board may issue and
8 establish the terms of a remedial plan to resolve the investigation
9 of a complaint filed under this subtitle.

10 (b) A remedial plan may not contain a provision that:

11 (1) revokes, suspends, limits, or restricts a person's
12 license or other authorization to practice dentistry or dental
13 hygiene; or

14 (2) assesses an administrative penalty against a
15 person.

16 (c) A remedial plan may not be imposed to resolve a
17 complaint:

18 (1) concerning:

19 (A) a patient death;

20 (B) the commission of a felony; or

21 (C) a matter in which the license holder engaged
22 in inappropriate sexual behavior or contact with a patient or
23 became financially or personally involved with a patient in an
24 inappropriate manner; or

25 (2) in which the appropriate resolution may involve a
26 restriction on the manner in which a license holder practices
27 dentistry or dental hygiene.

1 (d) The board may not issue a remedial plan to resolve a
2 complaint against a license holder if the license holder has
3 previously entered into a remedial plan with the board for the
4 resolution of a different complaint filed under this subtitle.

5 (e) The board may assess a fee against a license holder
6 participating in a remedial plan in an amount necessary to recover
7 the costs of administering the plan.

8 (f) A remedial plan is public information.

9 (g) In civil litigation, a remedial plan is a settlement
10 agreement under Rule 408, Texas Rules of Evidence.

11 (h) The board shall adopt rules necessary to implement this
12 section.

13 SECTION 10. Not later than December 1, 2013, the State Board
14 of Dental Examiners shall adopt rules necessary to implement the
15 changes in law made by this Act.

16 SECTION 11. Section 254.004(c), Occupations Code, as added
17 by this Act, applies only to an application for an original dental
18 license or for renewal of a dental license filed on or after
19 September 1, 2013. An application filed before September 1, 2013,
20 is governed by the law in effect immediately before that date, and
21 that law is continued in effect for that purpose.

22 SECTION 12. Sections 254.006(b) and 255.006, Occupations
23 Code, as amended by this Act, and Sections 255.0065, 255.0066,
24 255.0067, 263.0076, and 263.0077, Occupations Code, as added by
25 this Act, apply only to the investigation and resolution of a
26 complaint filed with the State Board of Dental Examiners on or after
27 January 1, 2014. A complaint filed before that date is governed by

1 the law in effect on the date the complaint was filed, and the
2 former law is continued in effect for that purpose.

3 SECTION 13. (a) Except as provided by Subsection (b) of
4 this section, this Act takes effect January 1, 2014.

5 (b) Section 10 of this Act and Sections 254.004(c) and (d)
6 and 254.019, Occupations Code, as added by this Act, take effect
7 September 1, 2013.

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 21, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3201 by Kolkhorst (Relating to the practice of dentistry; imposing surcharges and fees.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3201, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Probable Revenue Gain/(Loss) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Change in Number of State Employees from FY 2013
2014	(\$885,000)	\$885,000	5.8
2015	(\$885,000)	\$885,000	7.0
2016	(\$885,000)	\$885,000	7.0
2017	(\$885,000)	\$885,000	7.0
2018	(\$885,000)	\$885,000	7.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the practice of dentistry and imposing surcharges and fees. The bill would create the General Revenue-Dedicated--Dental Public

Assurance Account. The bill would require the Texas State Board of Dental Examiners (TSBDE) to assess a \$55 surcharge on the first registrations and renewals for dentists which would be deposited to the credit of the General Revenue-Dedicated--Dental Public Assurance Account. The bill would allow the TSBDE to delegate authority to board employees to issue licenses to applicants who clearly meet all licensing requirements, and delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

The bill would require the TSBDE to complete a preliminary investigation to determine if the license holder constitutes a continuing threat to public welfare not later than the 60th day after the date of receiving the complaint, and if the TSBDE fails to complete the preliminary investigation in that time frame then the official investigation of the complaint is considered to commence on that date. The bill would also allow the board to appoint an expert dentist panel to assist with complaints and investigations relating to medical competency by acting as expert dentist reviewers. The bill would require the TSBDE to notify the license holder 45 days before an informal settlement conference is held. The bill would also require the TSBDE to record an informal settlement conference at the request of the license holder, and allow the TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint; the bill would allow TSBDE to assess fees in the amount necessary to cover associated costs for both actions. The bill would require the TSBDE to collect certain information from licensed dentists after September 1, 2013, including but not limited to whether the license holder is a party to a dental service agreement or a participating provider under the Medicaid program; the bill would also require the TSBDE to provide a report to the legislature based on the information collected by November 1 of each even-numbered year.

The TSBDE would be required to adopt rules necessary to implement the bill by December 1, 2013. The bill would apply to complaints filed after January 1, 2014. The bill would take effect January 1, 2014, with the exception of Section 10 and Sections 254.004 (c), 254.004 (d), and 254.019 of the Occupations Code which would take effect September 1, 2013.

Methodology

Based on information provided by the Comptroller of Public Accounts, it is assumed that 16,089 new and renewal dental license applicants would be subject to the \$55 surcharge per year which would result in a gain to the General Revenue-Dedicated--Dental Public Assurance Account of approximately \$885,000 each fiscal year.

Based on the analysis of the TSBDE, it is assumed that an additional 5.8 FTEs in fiscal year 2014 and 7 FTEs in each subsequent fiscal year would be required to enforce the provisions of the bill. In addition to salary and benefit costs in the amount of \$489,785 in fiscal year 2014 and \$563,349 in each subsequent fiscal year, it is assumed that the agency would incur other costs of \$295,795 in professional fees and services in fiscal year 2014 and \$230,100 in each subsequent fiscal year, \$17,690 in travel in fiscal year 2014 and \$34,000 in each subsequent fiscal year, \$21,480 in rent for space for the additional FTEs in fiscal year 2014 and \$25,200 in each subsequent fiscal year, \$37,850 in other costs in fiscal year 2014 and \$30,951 in each subsequent fiscal year, and \$22,400 for equipment in fiscal year 2014 and \$1,400 in each subsequent fiscal year. This analysis assumes that all revenue collected in the General Revenue-Dedicated--Dental Public Assurance Account each fiscal year would be used to support the additional enforcement FTEs.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the

Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Technology

Based on the analysis of the TSBDE, it is estimated that \$150,000 in Professional Fees and Services would be required in fiscal year 2014 to create electronic complaint files and obtain encrypted email service to facilitate the review of complaints by expert panelists.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 504 Texas State Board of Dental Examiners, 304 Comptroller of Public Accounts

LBB Staff: UP, SD, CL, MW, LXH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 14, 2013

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3201 by Kolkhorst (Relating to the practice of dentistry; imposing surcharges and fees.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3201, Committee Report 2nd House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Probable Revenue Gain/(Loss) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Change in Number of State Employees from FY 2013
2014	(\$885,000)	\$885,000	5.8
2015	(\$885,000)	\$885,000	7.0
2016	(\$885,000)	\$885,000	7.0
2017	(\$885,000)	\$885,000	7.0
2018	(\$885,000)	\$885,000	7.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the practice of dentistry and imposing surcharges and fees. The bill would create the General Revenue-Dedicated--Dental Public

Assurance Account. The bill would require the Texas State Board of Dental Examiners (TSBDE) to assess a \$55 surcharge on the first registrations and renewals for dentists which would be deposited to the credit of the General Revenue-Dedicated--Dental Public Assurance Account. The bill would allow the TSBDE to delegate authority to board employees to issue licenses to applicants who clearly meet all licensing requirements, and delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

The bill would require the TSBDE to complete a preliminary investigation to determine if the license holder constitutes a continuing threat to public welfare not later than the 60th day after the date of receiving the complaint, and if the TSBDE fails to complete the preliminary investigation in that time frame then the official investigation of the complaint is considered to commence on that date. The bill would also allow the board to appoint an expert dentist panel to assist with complaints and investigations relating to medical competency by acting as expert dentist reviewers. The bill would require the TSBDE to notify the license holder 45 days before an informal settlement conference is held. The bill would also require the TSBDE to record an informal settlement conference at the request of the license holder, and allow the TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint; the bill would allow TSBDE to assess fees in the amount necessary to cover associated costs for both actions. The bill would require the TSBDE to collect certain information from licensed dentists after September 1, 2013, including but not limited to whether the license holder is a party to a dental service agreement or a participating provider under the Medicaid program; the bill would also require the TSBDE to provide a report to the legislature based on the information collected by November 1 of each even-numbered year.

The TSBDE would be required to adopt rules necessary to implement the bill by December 1, 2013. The bill would apply to complaints filed after January 1, 2014. The bill would take effect January 1, 2014, with the exception of Section 10 and Sections 254.004 (c), 254.004 (d), and 254.019 of the Occupations Code which would take effect September 1, 2013.

Methodology

Based on information provided by the Comptroller of Public Accounts, it is assumed that 16,089 new and renewal dental license applicants would be subject to the \$55 surcharge per year which would result in a gain to the General Revenue-Dedicated--Dental Public Assurance Account of approximately \$885,000 each fiscal year.

Based on the analysis of the TSBDE, it is assumed that an additional 5.8 FTEs in fiscal year 2014 and 7 FTEs in each subsequent fiscal year would be required to enforce the provisions of the bill. In addition to salary and benefit costs in the amount of \$489,785 in fiscal year 2014 and \$563,349 in each subsequent fiscal year, it is assumed that the agency would incur other costs of \$295,795 in professional fees and services in fiscal year 2014 and \$230,100 in each subsequent fiscal year, \$17,690 in travel in fiscal year 2014 and \$34,000 in each subsequent fiscal year, \$21,480 in rent for space for the additional FTEs in fiscal year 2014 and \$25,200 in each subsequent fiscal year, \$37,850 in other costs in fiscal year 2014 and \$30,951 in each subsequent fiscal year, and \$22,400 for equipment in fiscal year 2014 and \$1,400 in each subsequent fiscal year. This analysis assumes that all revenue collected in the General Revenue-Dedicated--Dental Public Assurance Account each fiscal year would be used to support the additional enforcement FTEs.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the

Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Technology

Based on the analysis of the TSBDE, it is estimated that \$150,000 in Professional Fees and Services would be required in fiscal year 2014 to create electronic complaint files and obtain encrypted email service to facilitate the review of complaints by expert panelists.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 504 Texas State Board of Dental Examiners, 304 Comptroller of Public Accounts

LBB Staff: UP, CL, MW, LXH

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 8, 2013

TO: Honorable Jane Nelson, Chair, Senate Committee on Health & Human Services

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3201 by Kolkhorst (Relating to the practice of dentistry; imposing surcharges and fees.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3201, As Engrossed: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Probable Revenue Gain/(Loss) from <i>General Revenue-Dedicated-- Dental Public Assurance Account</i>	Change in Number of State Employees from FY 2013
2014	(\$885,000)	\$885,000	5.8
2015	(\$885,000)	\$885,000	7.0
2016	(\$885,000)	\$885,000	7.0
2017	(\$885,000)	\$885,000	7.0
2018	(\$885,000)	\$885,000	7.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the practice of dentistry and imposing surcharges and fees. The bill would create the General Revenue-Dedicated--Dental Public

Assurance Account. The bill would require the Texas State Board of Dental Examiners (TSBDE) to assess a \$55 surcharge on the first registrations and renewals for dentists which would be deposited to the credit of the General Revenue-Dedicated--Dental Public Assurance Account. The bill would allow the TSBDE to delegate authority to board employees to issue licenses to applicants who clearly meet all licensing requirements, and delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

The bill would require the TSBDE to complete a preliminary investigation to determine if the license holder constitutes a continuing threat to public welfare not later than the 60th day after the date of receiving the complaint, and if the TSBDE fails to complete the preliminary investigation in that time frame then the official investigation of the complaint is considered to commence on that date. The bill would also allow the board to appoint an expert dentist panel to assist with complaints and investigations relating to medical competency by acting as expert dentist reviewers. The bill would require the TSBDE to notify the license holder 45 days before an informal settlement conference is held. The bill would also require the TSBDE to record an informal settlement conference at the request of the license holder, and allow the TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint; the bill would allow TSBDE to assess fees in the amount necessary to cover associated costs for both actions. The bill would also require the TSBDE to collect certain information from licensed dentists after September 1, 2013, and require the TSBDE to provide a report to the legislature based on the information collected by November 1, 2014.

The TSBDE would be required to adopt rules necessary to implement the bill by December 1, 2013. The bill would apply to complaints filed after January 1, 2014. The bill would take effect January 1, 2014, with the exception of Section 9 and Sections 254.004 (c) and (d) of the Occupations Code which would take effect September 1, 2013.

Methodology

Based on information provided by the Comptroller of Public Accounts, it is assumed that 16,089 new and renewal dental license applicants would be subject to the \$55 surcharge per year which would result in a gain to the General Revenue-Dedicated--Dental Public Assurance Account of approximately \$885,000 each fiscal year.

Based on the analysis of the TSBDE, it is assumed that an additional 5.8 FTEs in fiscal year 2014 and 7 FTEs in each subsequent fiscal year would be required to enforce the provisions of the bill. In addition to salary and benefit costs in the amount of \$489,785 in fiscal year 2014 and \$563,349 in each subsequent fiscal year, it is assumed that the agency would incur other costs of \$295,795 in professional fees and services in fiscal year 2014 and \$230,100 in each subsequent fiscal year, \$17,690 in travel in fiscal year 2014 and \$34,000 in each subsequent fiscal year, \$21,480 in rent for space for the additional FTEs in fiscal year 2014 and \$25,200 in each subsequent fiscal year, \$37,850 in other costs in fiscal year 2014 and \$30,951 in each subsequent fiscal year, and \$22,400 for equipment in fiscal year 2014 and \$1,400 in each subsequent fiscal year. This analysis assumes that all revenue collected in the General Revenue-Dedicated--Dental Public Assurance Account each fiscal year would be used to support the additional enforcement FTEs.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Technology

Based on the analysis of the TSBDE, it is estimated that \$150,000 in Professional Fees and Services would be required in fiscal year 2014 to create electronic complaint files and obtain encrypted email service to facilitate the review of complaints by expert panelists.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 504 Texas State Board of Dental Examiners, 304 Comptroller of Public Accounts

LBB Staff: UP, CL, MW, LXH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 15, 2013

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3201 by Kolkhorst (Relating to the practice of dentistry; imposing surcharges and fees.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3201, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue- Dedicated–Dental Public Assurance Account</i>	Probable Revenue Gain/(Loss) from <i>General Revenue- Dedicated–Dental Public Assurance Account</i>	Probable Savings/(Cost) from <i>General Revenue Fund 1</i>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund 1</i>
2014	(\$1,791,398)	\$5,280,000	\$933,238	(\$933,238)
2015	(\$2,440,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2016	(\$2,440,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2017	(\$2,440,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2018	(\$2,440,559)	\$5,280,000	\$1,392,893	(\$1,392,893)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	6.0
2015	9.0
2016	9.0
2017	9.0
2018	9.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the practice of dentistry and impose surcharges and fees. The bill would create the General Revenue-Dedicated--Dental Public Assurance Account. The bill would require the Texas State Board of Dental Examiners (TSBDE) to assess an \$80 surcharge on the first registrations and renewals for dentists, dental hygienists, dental assistants and dental labs which would be deposited to the credit of the General Revenue-Dedicated--Dental Public Assurance Account. The bill would allow the TSBDE to delegate authority to board employees to issue licenses to applicants who clearly meet all licensing requirements, and delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

The bill would require the TSBDE to complete a preliminary investigation to determine if it constitutes a continuing threat to public welfare not later than the 45th day after the date of receiving the complaint, and if the TSBDE fails to complete the preliminary investigation in that time frame then the official investigation of the complaint is considered to commence on that date. The bill would also allow the board to appoint an expert dentist panel to assist with complaints and investigations relating to medical competency by acting as expert dentist reviewers. The bill would require the TSBDE to notify the license holder 45 days before an informal settlement conference is held. The bill would also require the TSBDE to record an informal settlement conference at the request of the license holder, and allow the TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint; the bill would allow TSBDE to assess fees in the amount necessary to cover associated costs for both actions.

The TSBDE would be required to adopt rules necessary to implement the bill by December 1, 2013. The bill would apply to complaints filed after January 1, 2014. The bill would take effect January 1, 2014, with the exception of Section 7 which would take effect September 1, 2013.

Methodology

Based on information provided by the Comptroller of Public Accounts, it is assumed that 66,000 new and renewal applicants would be subject to the \$80 surcharge per year which would result in a gain to the General Revenue-Dedicated--Dental Public Assurance Account of approximately \$5.3 million each fiscal year.

Based on the analysis of the TSBDE, it is assumed that an additional 6.0 FTEs in fiscal year 2014 and 9 FTEs in each subsequent fiscal year would be required to enforce the provisions of the bill. In addition to salary and benefit costs in the amount of \$445,672 in fiscal year 2014 and \$703,484 in each subsequent fiscal year, it is assumed that the agency would incur other costs of \$295,795 in professional fees and services in fiscal year 2014 and \$230,100 in each subsequent fiscal year, \$19,000 in travel in fiscal year 2014 and \$34,000 in each subsequent fiscal year, \$23,760 in rent for space for the additional FTEs in fiscal year 2014 and \$32,400 in each subsequent fiscal year,

\$45,133 in other costs in fiscal year 2014 and \$45,882 in each subsequent fiscal year, and \$28,800 for equipment in fiscal year 2014 and \$1,800 in each subsequent fiscal year. Based on the analysis of the TSBDE, it is assumed that a total of \$858,160 in fiscal year 2014 and \$1,047,666 in each subsequent fiscal year would be necessary to support the additional FTEs.

In fiscal year 2013 the TSBDE reported approximately \$1.4 million budgeted for enforcement purposes, it is assumed that \$933,238 in fiscal year 2014 and \$1,392,893 in each subsequent fiscal year would be continued for enforcement in addition to the costs related to the additional FTEs in fiscal years 2014-2018. It is also assumed that these costs would be appropriated from the General Revenue-Dedicated--Dental Public Assurance Account instead of the General Revenue Fund under current law. Since the TSBDE is statutorily required to cover the cost of its operations with fee generated revenue, it is assumed that the agency would adjust fees (other than the \$80 surcharge) as necessary to implement the provisions of the bill.

Based on information provided by the Comptroller of Public Accounts, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Technology

Based on the analysis of the TSBDE, it is estimated that \$150,000 in Professional Fees and Services would be required in fiscal year 2014 to create electronic complaint files and obtain encrypted email service to facilitate the review of complaints by expert panelists.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 504 Texas State Board of Dental Examiners, 304 Comptroller of Public Accounts

LBB Staff: UP, CL, MW, LXH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 2, 2013

TO: Honorable Lois W. Kolkhorst, Chair, House Committee on Public Health

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3201 by Kolkhorst (Relating to the practice of dentistry.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3201, As Introduced: an impact of \$0 through the biennium ending August 31, 2015.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2014	\$0
2015	\$0
2016	\$0
2017	\$0
2018	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue-Dedicated-Public Assurance Account</i>	Probable Revenue Gain/(Loss) from <i>General Revenue-Dedicated-Public Assurance Account</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 1
2014	(\$2,773,159)	\$5,280,000	\$1,392,893	(\$1,392,893)
2015	(\$2,590,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2016	(\$2,590,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2017	(\$2,590,559)	\$5,280,000	\$1,392,893	(\$1,392,893)
2018	(\$2,590,559)	\$5,280,000	\$1,392,893	(\$1,392,893)

Fiscal Year	Change in Number of State Employees from FY 2013
2014	9.0
2015	9.0
2016	9.0
2017	9.0
2018	9.0

Fiscal Analysis

The bill would amend the Occupations Code relating to the practice of dentistry. The bill would create the General Revenue-Dedicated--Public Assurance Account. The bill would require the Texas State Board of Dental Examiners (TSBDE) to assess an \$80 surcharge on the first registrations and renewals for dentists, dental hygienists, dental assistants and dental labs which would be deposited to the credit of the General Revenue-Dedicated--Public Assurance Account. The bill would allow the TSBDE to delegate authority to board employees to issue licenses to applicants who clearly meet all licensing requirements, and delegate to a committee of board employees the authority to dismiss or enter into an agreed settlement of a complaint that does not relate directly to patient care or that involves only administrative violations.

The bill would require the TSBDE to complete a preliminary investigation to determine if it constitutes a continuing threat to public welfare not later than the 45th day after the date of receiving the complaint, and if the TSBDE fails to complete the preliminary investigation in that time frame then the official investigation of the complaint is considered to commence on that date. The bill would also allow the board to appoint an expert dentist panel to assist with complaints and investigations relating to medical competency by acting as expert dentist reviewers. The bill would require the TSBDE to notify the license holder 45 days before an informal settlement conference is held. The bill would also require the TSBDE to record an informal settlement conference at the request of the license holder, and allow the TSBDE to issue and establish the terms of a remedial plan to resolve the investigation of a complaint; the bill would allow TSBDE to assess fees in the amount necessary to cover associated costs for both actions.

There is no effective date on the bill; it is assumed the bill would take effect September, 2013.

Methodology

Based on information provided by the TSBDE, it is assumed that 66,000 licensees would be assessed an \$80 surcharge when they obtain a first registration or renewal of their license which would result in a gain to the General Revenue-Dedicated--Public Assurance Account of approximately \$5.3 million each fiscal year.

Based on the analysis of the TSBDE, it is assumed that an additional 9.0 FTEs would be required to enforce the provisions of the bill. In addition to salary and benefit costs in the amount of \$703,484 in each fiscal year, it is assumed that the agency would incur other costs of \$525,000 in Professional Fees and Services in fiscal year 2014 and \$380,100 in each subsequent fiscal year, \$34,000 in Travel in each fiscal year, \$32,400 each fiscal year in rent for space for the additional FTEs, \$56,582 in Other Costs in fiscal year 2014 and \$45,882 in each subsequent fiscal year, and \$28,800 in Equipment in fiscal year 2014 and \$1,800 in each subsequent fiscal year.

In fiscal year 2013 the TSBDE reported approximately \$1.4 million budgeted for enforcement

purposes, it is assumed that amount would be continued for enforcement in addition to the costs related to the additional 9.0 FTEs in fiscal years 2014-2018 and be appropriated from the General Revenue-Dedicated--Public Assurance Account instead of the General Revenue Fund under current law. Since the TSBDE is statutorily required to cover the cost of its operations with fee generated revenue, it is assumed that the agency would adjust fees (other than the \$80 surcharge) as necessary to implement the provisions of the bill.

Based on information provided by the Comptroller of Public Accounts, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

Technology

Based on the analysis of the TSBDE, it is estimated that \$150,000 in Professional Fees and Services would be required in fiscal year 2014 to create electronic complaint files and obtain encrypted email service to facilitate the review of complaints by expert panelists.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 504 Texas State Board of Dental Examiners

LBB Staff: UP, CL, MW, LXH